

**REMARKS**

**INTRODUCTION:**

In accordance with the foregoing, claims 1, 6-8, 14-15, and 20-21 have been cancelled without prejudice or disclaimer, and claims 3, 9, 11 and 16 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 3, 9, 11 and 16 are pending and under consideration. Reconsideration is respectfully requested.

**ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Response and Request for Reconsideration because:

(a) at least certain of the rejected claims have been canceled thereby at least reducing the issues for appeal;

(b) it is believed that the amendments of claims 3, 9, 11 and 16 put this application into condition for allowance;

(c) the amendments were not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed;

(d) the amendments of claims 3, 9, 11 and 16 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and/or

(e) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." ( Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTION UNDER 35 U.S.C. §103:**

In the Office Action, at pages 3-6, numbered paragraph 7, claims 1, 3, 6-9, 11, 14, 15, 16, 20, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith et al.

(USPN 6,487,540; hereafter, Smith) in view of Komai (USPN 6,625,579; hereafter, Komai). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claims 1, 6-8, 14-15, and 20-21 have been cancelled without prejudice or disclaimer.

Claims 3, 9, 11 and 16 have been amended for clarification in accordance with FIG. 3.

However, Smith fails to disclose triggering sending of the electronic receipt by using keys of a POS and a PDA such as a settlement key, a receipt issue key, or a receive key of a PDA. In contrast, amended independent claim 3 recites: “calculating goods settlement information from goods information of goods purchased by a user and processing a settlement in response to a prompt from a settlement key in a register terminal of the settlement device.” Independent claims 9, 11 and 16 utilize a settlement key in similar fashion.

The Examiner submits that the above features are taught by Komai and a normal POS transaction.

However, there is no teaching or suggestion of combining Smith and Komai and AAPA to provide the present claimed invention. In Ruiz and Foundation v. A.B. Chance Company, 69 USPQ2d 1690 (CAFC January 29, 2004), the court held:

In making the assessment of differences, section 103 specifically requires consideration of the claimed invention “as a whole.” Inventions typically are new combinations of existing principles or features. Envtl. Designs, Ltd. v. Union Oil Co., 713 F.2d 693, 698 (Fed. Cir. 1983) (noting that “virtually all [inventions] are combinations of old elements.”). The “as a whole” instruction in title 35 prevents evaluation of the invention part by part. Without this important requirement, an obviousness assessment might break an invention into its component parts (A + B + C), then find a prior art reference containing A, another containing B, and another containing C, and on that basis alone declare the invention obvious. This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result – often the very definition of invention. (emphasis added)

Section 103 precludes this hindsight discounting of the value of new combinations by requiring assessment of the invention as a whole. This court has provided further assurance of an “as a whole” assessment of the invention under § 103 by requiring a showing that an artisan of ordinary skill in the art at the time of invention, confronted by the same problems as the inventor and with no knowledge of the claimed invention, would select the various elements from the prior art and combine them in the claimed manner. In other words, the examiner or court must show some suggestion or motivation, before the invention itself, to make the new combination. See In re Rouffet, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998). (emphasis added)

Komai teaches (see claim 1):

1. An electronic cash register comprising:

registration means for registering sales information of a plurality of items of merchandise;

sales information storage means for storing the sales information; and

control means for causing execution of an ordinary registration mode in which the sales information registered by the registration means is supplied to the sales information storage means;

the electronic cash register further comprising:

special registration process specifying means for specifying that special sales information of special items be subjected to a special registration process;

wherein the sales information storage means includes a first portion for storing sales information associated with each item, and a second portion for storing sales information associated with each of a plurality of purchasers, the second portion including a first sub-portion for storing sales information associated with respective ordinary purchasers and a second sub-portion for storing sales information associated with respective special purchasers,

wherein, when the special registration is specified by the special registration process specifying means, the control means causes execution of a special registration mode in which the sales information registered by the registration means is supplied to the second sub-portion for storing sales information of respective special purchasers, and

wherein the sales information stored in the first and second sub-portions includes a total quantity and a total price for at least one item, thereby allowing the total quantity and the total price of the at least one item purchased by both ordinary and special purchasers to be output from said respective first and second sub-portions of said sales information storage means. (emphasis added)

Hence. Komai does not teach or suggest that **in response to a prompt of a settlement key of the store settlement device, the user electronically authorizes the payment for the goods purchase in his mobile terminal, and the store settlement device issues an electronic receipt to the mobile terminal,** as is disclosed in the present invention.

With respect to claims 1, 6, 7 and 9, the Examiner submits that the "Applicant, in the background of the specification. discloses that the processes between users and POS terminals are already well-known and widely used during a transaction." The Examiner's concerns about claims 1, 6, and 7 are now moot since claims 1, 6 and 7 have been cancelled. With respect to claim 9, it is respectfully submitted that the Examiner has overstated the processes described in the background of the specification. The background of the specification recites:

[0004] With the improved performance and lower prices of personal electronic equipment in recent years, individuals can now use such equipment for a wide variety of purposes. One example of the use of such equipment is in the individual use of accounting systems, typified by the so-called household budget. To use this accounting system, **the user must record goods purchases, for example by entering purchase data in the accounting system.** (emphasis added)

[0005] FIG. 8 is a schematic view of a **conventional system**. The **customer 8 goes to the store 300, which sells the product (good or service), and purchases the product.** The **product code is entered into the POS (point of sale) terminal 100,** for example **the bar code 200 of the purchased product is read.** The **POS terminal 100**

**calculates the total price and processes the settlement.** The customer 8 pays the settlement price. The POS terminal 100 then issues a receipt 210 on which the purchase details are recorded. (emphasis added)

[0006] The customer 8 takes the receipt 210. The customer 8 returns home, looks at the receipt 210, and **uses the keyboard to enter the purchase details recorded on the receipt 210 into household budget software on their personal computer (PC).** The customer 8 uses the household budget software 110 and processes the information by subject and date. In conventional accounting systems, the history of purchases made at store 300 is entered manually in this way. (emphasis added)

[0007] The manual input of information into these accounting systems requires the entry of data for each product purchased and **therefore brings with it the problems of complexity and time.** For example, when a keyboard is used, the date and time of the purchase, the store at which the purchase was made, the name of the purchased product, and the price of the purchase **must be entered manually for each product.** OCR (Optical Character Reader) may also be used. But, because the letters used on the receipts of different stores are not necessarily the same, **incorrect recognition cannot be avoided. Everything must be checked on screen and corrected manually.** (emphasis added)

As may be seen from the Background, the conventional systems employ entry of the product code into the POS terminal, computation of the total price at the terminal, and issuance of a written receipt. In addition, when the conventional system is used, manual entry of purchase information is required by the user at his home computer.

In contrast, amended claim 9 of the present invention, and claims 3, 11, and 16 in similar fashion, provides a settlement unit calculating goods settlement information from goods information of goods purchased by a user and processing a settlement and having a settlement key; and a communication unit sending goods purchase information, including said goods settlement information, to a mobile terminal of said user, and storing the goods purchase information in said mobile terminal to communicate with a processing device of said user, wherein said settlement unit comprises: a reader reading the goods information for the goods purchased by said user, and a register terminal calculating the goods settlement information from said read goods information on a register terminal of said settlement device and processing the settlement in response to a prompt from a settlement key in said register terminal in accordance with authorization of said user, wherein said register terminal sends said goods settlement information on said register terminal to said mobile terminal in response to the prompt from the settlement key of said goods settlement information.

That is, **the goods-purchase information is handled automatically by the store settlement device and transferred to the mobile terminal,** where, in response to a prompt of a settlement key of the store settlement device, the user electronically authorizes the payment for the goods purchase in his mobile terminal, and the store settlement device issues an electronic receipt to the mobile terminal.

Hence, it is respectfully submitted that the Applicant does not disclose, in the background of the specification, the invention as described in claims 3, 9, 11 and/or 16 of the present invention, and there is no teaching or suggestion of combining Smith and Komai.

Thus, it is respectfully submitted that amended claims 3, 9, 11 and 16 are patentable under 35 U.S.C. §103(a) over Smith et al. (USPN 6,487,540) in view of Komai (USPN 6,625,579).

#### CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date:

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